

STATE OF ILLINOIS
ILLINNOIS COMMERCE COMMISSION

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| COMMONWEALTH EDISON |) | |
| COMPANY |) | |
| |) | Docket No. 05-0597 |
| Proposed general increase in |) | |
| rates for delivery service. (Tariffs |) | |
| filed on August 31, 2005) |) | |

**THE UNITED STATES DEPARTMENT OF ENERGY
BRIEF ON REHEARING**

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United States Department of Energy**

November 14, 2006

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Comes now the United States Department of Energy (DOE) on behalf of its two National Laboratories, Argonne National Laboratory and Fermi National Laboratory, by its counsel and hereby submits its Brief on Rehearing in the above-captioned proceeding pursuant to section 200,800 of the Rules of the Illinois Commerce Commission (Commission).

Stipulation

As was stated by Mr. Robertson on behalf of the Illinois Industrial Energy Consumers (IIEC) and DOE at the November 3, 2006 rehearing in this docket, Commonwealth Edison Company (ComEd), IIEC, and DOE engaged in efforts to find and agree to a common middle position supported by record evidence:

Specifically, IIEC, DOE and ComEd, for the purposes of this case only, and based upon the evidence now before the Commission, and without establishing any precedential effect for future cases or in other circumstances have agreed:

One, IIEC and DOE stipulate that the substantial evidence supports the Commission's July 26 decision on general and intangible plant.

Two, ComEd stipulate that IIEC and DOE's position on the rate design for customers with over 10 megawatts of demand that are served at high voltage is supported by substantial evidence, is just and reasonable and ComEd supports its adoption.

Three, IIEC, DOE, and ComEd each stipulate that the imputed capital structure with a common equity ratio of 42.86 percent approved in the July 26 order is supported by substantial evidence.

Four, IIEC, DOE and ComEd stipulate that the 10.045 percent return on equity approved in the July 26 order is supported by substantial evidence.

Five, IIEC and DOE stipulate that substantial evidence supports, and that they would not object to an adoption of ComEd's rehearing request for approval of \$62 million of A&G disallowed in the July 26 order.

And ComEd stipulates that substantial evidence supports and it would accept recovery of the estimated cost of its pension contribution based (on a) 4.75 percent annual debt cost, to which annual cost IIEC, DOE would not object.

IIEC, DOE and ComEd believe that the Commission and the parties should favorably consider the middle ground position that IIEC and DOE and ComEd are willing to support, if the middle ground positions are not adopted, it is IIEC, DOE and ComEd's understanding that the parties, these parties in particular, will rely upon position taken on these issues in the context of their testimony and briefs. (Rehearing Transcript, 423 – 425, November 3, 2006)

As stated in the stipulation, DOE supports the middle ground positions agreed to by DOE, ComEd, and IIEC, but will brief its position on the rates for 10 MW customers served at high-voltage.

III. E. Rate Design

2. Over 10 MW customers served at high-voltage

The Commission Should Order that Customers with Loads in Excess of 10 MW Served at High Voltages Receive a Jurisdictional Average Percentage Increase in Their Distribution Facilities Charge

In the Commission's July 26, 2006 Order in this proceeding, the Commission clearly indicated its intent to address the concern that the U.S. Department of Energy (DOE) raised regarding the enormous increase in the Distribution Facilities Charge (DFC) for high-voltage customers with loads in excess of 10 MW that would result from Commonwealth Edison Company's (ComEd's) rate design proposal. At page 199 of that Order, the Commission stated that, "Based on the Commission's conclusion in the Very Large Load Customer section of this order, DOE's concerns have been mitigated." DOE and the Illinois Industrial Energy Consumers (IIEC) filed an application for rehearing of this issue because the Company's compliance filing resulted in an increase for high voltage customers with loads above 10 MW that was extremely high compared to the increases for all other similar high voltage and standard voltage customers, which is contrary to the expressed intent of the Commission that the final order in this proceeding would result in the mitigation of DOE concerns regarding the rates for large, high voltage customers. The Commission granted the rehearing of this issue and both the IIEC and DOE sponsored testimony on this issue during the rehearing phase of the proceeding.

Dr. Dale Swan for DOE (DOE Exh. 2.0) and Mr. Robert Stephens for the IIEC (IIEC Exh. 9.0) both summarized the increases for non-residential customer groups with loads between 1 MW and over 10 MW. (DOE Exh. 2.1; Figure 1, IIEC Exh. 9.0, page 3) Those summaries clearly show that while standard voltage customers received DFC increases between 0.4% and 10.3%, and high voltage customers with loads up to 10 MW received decreases between 47.5% and 50.3%, high voltage customers with loads in excess of 10 MW would receive an increase of approximately 60 % in their DFC. Clearly the Commission Order, as carried out in ComEd's compliance rate filing, has not

had the Commission's intended effect of "mitigating DOE's concerns" regarding the enormous increase for this group of largest high voltage customers.

Dr. Swan also demonstrated in his testimony on rehearing that the structure of the Company's high voltage compliance rates makes no intuitive sense. He noted that the difference between DFCs for high voltage and standard voltage customers of the same size is "the lower cost of serving high voltage customers because they do not use the Company's low voltage system." (DOE Exh. 2.0, 80-81) He went on to point out that this difference can be referred to as the "high voltage credit" and noted that, "Generally, the larger the customer the higher the delivery voltage, the greater the savings, and the larger the high voltage credit, because less and less of the low voltage distribution system is being used." (DOE Exh. 2.0, 82-84) As Dr. Swan shows in his testimony, under the rates in effect on June 1, 2006, the percentage credits were around 29% for customers up to 10 MW and about 56% for customers above 10 MW, which is what one would expect. However, under the Company's compliance rates, high voltage customers from 1 MW to 10 MW would get a 66% credit, while high voltage customers above 10 Mw would receive only a 29% credit, which is contrary to what one would expect in terms of where the most savings would be realized from not using the Company's low voltage distribution system. This results directly from the fact that standard voltage customers with loads above 10 MW receive the system average increase, while high voltage customers with loads above 10 MW would receive a 60 % increase. Dr. Swan's analysis of the illogic of the structure of the high voltage rates resulting from the Company's compliance filing was not rebutted by any of ComEd's rebuttal witnesses.

The Company's compliance rates fail to mitigate DOE's concerns as the Commission intended and consequently result in a structure of high voltage rates that makes no intuitive sense. But beyond that, to treat standard voltage customers above 10 MW so much more favorably than high voltage customers above 10 MW is simply unfair on its face. Dr. Swan notes that "the Commission gave two reasons why it ordered the Company to maintain a separate class for customers above 10 MW and to increase current charges for these customers in proportion to the overall increase approved in the case." (Exh.2.0, 101-104) These were "the adverse impacts that would be faced by the largest customers" and that the "Commission is persuaded that the cost of serving such very large customers is potentially lower than serving significantly smaller customers." (Order, page 196) The point is that, as Dr. Swan testified, "The two reasons apply equally to above 10 MW customers served at high voltages and at standard voltages." (Exh. 2.0, 108-109) There simply is no basis upon which to provide standard voltage customers in this size group an increase of approximately 0.4% (the average system increase) while allowing the Company to increase the DFC for high voltage customers in this size group by 60%. The Commission should order that high voltage customers with loads above 10 MW be treated the same as standard voltage customers above 10 MW – specifically, that their June 1, 2006 net DFC charge be increased by the system average percentage increase.

The Average Percentage Increase for the DFCs of High Voltage Customers Can be Implemented Using Either the Mechanism Proposed by Mr. Stephens or the Mechanism Preferred by ComEd

Two rate design mechanisms have been proposed to implement the average system percentage increase for the DFC of high voltage customers with loads in excess of 10 MW. Mr. Stephens for IIEC has proposed that there should be one class of customers above 10 MW, broken down between those who receive service at standard voltages and those that receive service at high voltages. Each of these subgroups would have a different DFC charge. (IIEC Exh. 9.0, 80-83) Mr. Paul Crumrine and Mr. Lawrence Alongi have attributed an alternative implementation proposal to Dr. Swan. Specifically, they state that, “DOE recommends that ComEd implement the proposal by creating two separate charges within the High Voltage Delivery Class, one for over 10 MW customers and another for other customers in the class.” (ComEd Exh. 62.0 Corrected, 498-501) The Company apparently prefers the second of these alternatives due to administrative difficulties associated with the first. Specifically, Messrs. Crumrine and Alongi note that Mr. Stephens approach would require changes to the “fundamental post-2006 billing system structure, for which programming is well underway.” (ComEd Exh. 62.0 Corrected, 548-549)

DOE is indifferent as to which mechanism is used to extend the average percentage increase treatment to high voltage customers above 10 MW. If the Company believes its preferred mechanism will minimize the administrative difficulties of achieving this goal, then DOE suggests that the Commission order implementation of a High Voltage Delivery class, with different rates for customers with loads up to 10 MW, and for customers with loads in excess of 10 MW.

Special Rate Treatment for Low Voltage Loads of High Voltage Customers can be Eliminated

DOE initially made a proposal to eliminate low voltage loads from the determination of the costs of serving high voltage customers if the Commission were to adopt the Company's proposal to mechanistically translate estimated unit costs into rates in determining high voltage delivery rates. The Commission saw fit to adopt Dr. Swan's proposal on this issue, and required the Company to develop a separate rate for the standard voltage loads of high voltage customers, which it did in its compliance rates. As Dr. Swan stated in his rebuttal testimony, that proposal was moot if the Commission accepted the IIEC proposal that all customers with loads above 10 MW, including those served at high voltages, receive a system average percentage increase over their June 1, 2006 net DFC rates. DOE states again that, if the Commission modifies its Order to extend to high voltage customers with loads in excess of 10 MW the system-average percentage increase treatment, then DOE's concerns are met and it sees no need to develop separate rates for the standard voltage loads of high voltage customers.

In his testimony on rehearing, Dr. Swan stated that, if "the Commission rightfully believes that this is the proper way to treat these standard voltage loads, there is a fairly straightforward way to accomplish that. That would be by simply applying the appropriate standard voltage rate to those standard voltage loads, which is the way high voltage customers have been billed historically." (DOE Exh. 2.0, 176-180) Messrs. Crumrine and Alongi take issue with Dr. Swan's characterization of this approach as being "straightforward." They argue that this approach would involve significant administrative and implementation problems because it would require that they program their billing system to record these demands at the meter level and then be able to apply

the appropriate standard voltage charge from one of five nonresidential delivery service classes. (ComEd Exh. 62.0, 534-542)

Dr. Swan's rehearing testimony on this issue was offered to assist the Commission on this issue if the Commission decides to continue to require that low voltage loads of high voltage customers not receive the high voltage discounted rate. His recommendation was based on his belief that all high voltage customers are billed the way that the DOE laboratories have been billed. For those customers, the high voltage discount is only applied to that portion of the load that is actually served at high voltages, indicating that the Company must be able to differentiate between those loads at the meter. However, DOE again would recommend that the Company's concerns regarding billing and metering difficulties be taken into consideration when the Commission decides on the merits of retaining this feature of the Commission's July 26, 2006 Order, and the best way to design rates to accomplish this if the feature is retained.

Respectfully submitted,

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